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OFFICE OF PETITIONS

In re Application of	:	
Baudisch, et al.	:	
Application No. 10/015,642	:	DECISION
Filing Date: 17 December, 2001	:	
Attorney Docket No.: D/A1188Q	:	

This is a decision on the petition filed on 16 November, 2006, seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181.¹

The Office regrets the delay in addressing this matter, however, it was presented for review by the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

¹ Petitioner indicates by telephone that he filed on or about 1 March, 2007, a petition under 37 C.F.R. §1.137, however, at this writing there is no indication in PALM or IFW of the presence of that additional petition.

- (1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled “Renewed Petition under 37 C.F.R. §1.181.”

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner’s only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

- (2) Thereafter, there will be no further reconsideration of this matter.²

BACKGROUND

The record reflects that:

- Applicant failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 19 January, 2006, with reply due absent and extension of time on or before 19 April, 2006;
- the instant application went abandoned after midnight 19 April 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed, however, Office records in PALM clearly indicate that the application is deemed abandoned;
- on 16 November, 2006, Petitioner filed the instant petition, with an averment of non-receipt and, while there is a statement that the Office action is not found in the file, there is no indication as to who made the search and that the person who searched the file is the one making the statement—if it is Petitioner, Nola Mae McBain (Reg. No. 35,782) it would be proper for more clarity to be given to that fact;
- further, Petitioner avers a conversation with the Examiner, however, the record is silent as to such an event—Petitioner is reminded that it is Petitioner’s responsibility to memorialize conversations with the Examiner, for, as one registered to practice before the

² For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Loudon, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R. §§1.181, 182, 183.

Office, Petitioner is aware that the Rules of Practice require that all matters before the Office are to be in writing (see: 37 C.F.R. §1.2³).

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.⁴

³ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

⁴ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).⁵

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.⁶

Delays in responding properly raise the question whether delays are unavoidable.⁷ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁸ And the Petitioner must be diligent in attending to the matter.⁹ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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- (1) Holding certain facts to have been established;
 - (2) Returning papers;
 - (3) Precluding a party from filing a paper, or presenting or contesting an issue;
 - (4) Imposing a monetary sanction;
 - (5) Requiring a terminal disclaimer for the period of the delay; or
 - (6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15). [Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

⁵ 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

⁶ Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

⁷ See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

⁸ See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

⁹ See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.¹⁰⁾⁾

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.¹¹

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

¹⁰ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

¹¹ See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* * *

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Because of the failure to provide clarity as to the person and process of the file search, Petitioner appears not to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unavoidable or unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.” (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:¹²

By mail: Commissioner for Patents¹³
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹⁴) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl.: 19 January, 2006, Office action

¹² On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information, see: <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf>.)

¹³ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

¹⁴ The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,642	12/17/2001	Patrick Baudisch	D/A1188Q	8515

7590 01/19/2006
Patent Documentation Center
Xerox Corporation
Xerox Square 20th Floor
100 Clinton Ave South
Rochester, NY 14644

EXAMINER

ROSSELL, MICHAEL

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/015,642	Applicant(s) BAUDISCH ET AL.	
	Examiner Michael Roswell	Art Unit 2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050125</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to a Request for Continued Examination filed 18 October 2005.

Information Disclosure Statement

The information disclosure statement filed 25 January 2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the IDS does not list the document number for "Arcuri et al", class 345, subclass 428. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hogle, IV (US Patent 5,923,307), hereinafter Hogle.

Regarding claim 1, Hogle teaches providing image information data for an image and replicating the image information to provide image information data associated with display areas, wherein the image information data associated with a display area is to be displayed on

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the associated display area, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle further teaches transforming at least one of the associated image information data where at least one of the associated image information data is a transformed portion of the image information data such that when images are displayed on each display area from the associated image information data the resulting image on at least two display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), where the displayed resolution of the image displayed on at least one of the at least two display areas is different from the displayed resolution of the image displayed on at least one other of the at least two display areas (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29).

Regarding claims 2 and 3, Hogle teaches in Fig. 4 the transforming and display of multiple objects between multiple viewing areas, which encompasses applicant's claimed transforming of two and three image information datum.

Regarding claim 4, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is scaled in size, taught as

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the resizing of windows or other display regions in response to a display geometry change, at col. 10, lines 30-35.

Regarding claim 5, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is clipped, taught inherently as the display of one window between two monitors in Fig. 16a, where the window is clipped at the edge of the monitor so as to keep a continuous image appearance.

Regarding claim 6, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is translated, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claim 7, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image has modified colors, taught as the conversion of an image color to match the limitations of an adaptor or monitor, at col. 7, lines 58-63.

Regarding claim 8, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is rotated, taught as the

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contiguous display of an image on a first monitor in a rotated or inverted relationship with a second monitor, at Appendix A, col. 18.

Regarding claim 9, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claims 10 and 11, Hogle teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Regarding claim 12, Hogle teaches providing image information data for an image and replicating the image information to provide first and second image information data to be displayed on first and second display areas, respectively, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle further teaches transforming the first image information data wherein the first image information data is a transformed portion of the image information data such that when images are displayed on the first and second display areas from the associated image information data the resulting image on the first and second display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), and the displayed resolution of the

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image displayed on the first display area is different than the displayed resolution of the image displayed on the second display area (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29).

Regarding claim 13, Hogle teaches transforming the first image information data further comprising transforming the second image information data, wherein the second image information data is a transformed portion of the image information data, taught as the display of objects between two monitors, at col. 1, lines 63-67, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29.

Regarding claim 14, Hogle teaches transforming the first image information data comprising scaling the image information data, taught as taught as the resizing of windows or other display regions in response to a display geometry change, at col. 10, lines 30-35.

Regarding claim 15, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is clipped, taught inherently as the display of one window between two monitors in Fig. 16a, where the window is clipped at the edge of the monitor so as to keep a continuous image appearance.

Regarding claim 16, Hogle teaches transforming the first image information data comprising transforming the first image information data such that when an image is displayed from the first image information data, the displayed image is translated, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claim 17, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image has modified colors, taught as the conversion of an image color to match the limitations of an adaptor or monitor, at col. 7, lines 58-63.

Regarding claim 18, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is rotated, taught as the contiguous display of an image on a first monitor in a rotated or inverted relationship with a second monitor, at Appendix A, col. 18.

Regarding claim 19, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

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Regarding claims 20 and 21, Hogle teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Regarding claim 22, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67. Furthermore, Hogle teaches replicating the image information to provide image information data to be displayed on first and second display areas, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle also teaches transforming at least one of the associated image information data wherein the first image information data is a transformed portion of the image information data such that when images are displayed on each display area from the associated image information data the resulting image on at least two display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), and the displayed resolution of the image displayed on the first display area is different from the displayed resolution of the image displayed on the second display area (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29). Hogle further teaches

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sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Response to Arguments

Applicant's arguments filed 18 October 2005 have been fully considered but they are not persuasive.

In response to Applicant's argument that Hogle IV fails to teach transforming image information data to provide a continuous display with portions displayed in different resolutions, the Examiner respectfully disagrees. Applicant has noted several times that the display of an image across multiple monitors having different pixel resolutions would result in the image appearing larger on the monitor with larger pixels, and smaller on the monitor with smaller pixels. While the Examiner accepts this may be true, the language of claims 1, 11, and 22 necessitates that the image appear "substantially continuous to a viewer". Such language is highly subjective in nature, as what is substantially continuous to one person may not be substantially continuous to another. Therefore, the Examiner refers to Figs. 4 and 16(a) and col. 1, lines 62-67, which depict a single window displayed and moved across two different monitors. While the window may very well be larger on one monitor than the other due to variations in pixel resolution, the fact that the window appears to be the same window on both monitors, qualifies it as a "substantially continuous" image.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Michael Roswell
1/4/2006



CAO (KEVIN) NGUYEN
PRIMARY EXAMINER

DETAILED ACTION

This Office Action is in response to a Request for Continued Examination filed 18 October 2005.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hogle, IV (US Patent 5,923,307), hereinafter Hogle.

Regarding claim 1, Hogle teaches providing image information data for an image and replicating the image information to provide image information data associated with display areas, wherein the image information data associated with a display area is to be displayed on the associated display area, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle further teaches transforming at least one of the associated image information data where at least one of the associated image information data is a transformed portion of the image information data such that when images are displayed on each display area from the associated image information data the resulting image on at least two display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), where the displayed resolution of the image displayed on at least one of the at least two display areas is different from the displayed resolution of the image displayed on at least one other of the at least two display areas (taught

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as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29).

Regarding claims 2 and 3, Hogle teaches in Fig. 4 the transforming and display of multiple objects between multiple viewing areas, which encompasses applicant's claimed transforming of two and three image information datum.

Regarding claim 4, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is scaled in size, taught as the resizing of windows or other display regions in response to a display geometry change, at col. 10, lines 30-35.

Regarding claim 5, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is clipped, taught inherently as the display of one window between two monitors in Fig. 16a, where the window is clipped at the edge of the monitor so as to keep a continuous image appearance.

Regarding claim 6, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image

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is displayed from the image information data, the displayed image is translated, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claim 7, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image has modified colors, taught as the conversion of an image color to match the limitations of an adaptor or monitor, at col. 7, lines 58-63.

Regarding claim 8, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is rotated, taught as the contiguous display of an image on a first monitor in a rotated or inverted relationship with a second monitor, at Appendix A, col. 18.

Regarding claim 9, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claims 10 and 11, Hogle teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Regarding claim 12, Hogle teaches providing image information data for an image and replicating the image information to provide first and second image information data to be displayed on first and second display areas, respectively, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle further teaches transforming the first image information data wherein the first image information data is a transformed portion of the image information data such that when images are displayed on the first and second display areas from the associated image information data the resulting image on the first and second display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), and the displayed resolution of the image displayed on the first display area is different than the displayed resolution of the image displayed on the second display area (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29).

Regarding claim 13, Hogle teaches transforming the first image information data further comprising transforming the second image information data, wherein the second image information data is a transformed portion of the image information data, taught as the display of objects between two monitors, at col. 1, lines 63-67, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29.

Regarding claim 14, Hogle teaches transforming the first image information data comprising scaling the image information data, taught as taught as the resizing of windows or other display regions in response to a display geometry change, at col. 10, lines 30-35.

Regarding claim 15, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is clipped, taught inherently as the display of one window between two monitors in Fig. 16a, where the window is clipped at the edge of the monitor so as to keep a continuous image appearance.

Regarding claim 16, Hogle teaches transforming the first image information data comprising transforming the first image information data such that when an image is displayed from the first image information data, the displayed image is translated, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claim 17, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image has modified colors, taught as the conversion of an image color to match the limitations of an adaptor or monitor, at col. 7, lines 58-63.

Regarding claim 18, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image

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is displayed from the image information data, the displayed image is rotated, taught as the contiguous display of an image on a first monitor in a rotated or inverted relationship with a second monitor, at Appendix A, col. 18.

Regarding claim 19, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claims 20 and 21, Hogle teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Regarding claim 22, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67. Furthermore, Hogle teaches replicating the image information to provide image information data to be displayed on first and second display areas, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle also teaches transforming at least one of the associated image information data wherein the first image information data is a transformed portion of the image information data such that when images are displayed on each display area from the associated image information data the resulting image on at least two display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as

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the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), and the displayed resolution of the image displayed on the first display area is different from the displayed resolution of the image displayed on the second display area (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29). Hogle further teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Response to Arguments

Applicant's arguments filed 18 October 2005 have been fully considered but they are not persuasive.

In response to Applicant's argument that Hogle IV fails to teach transforming image information data to provide a continuous display with portions displayed in different resolutions, the Examiner respectfully disagrees. Applicant has noted several times that the display of an image across multiple monitors having different pixel resolutions would result in the image appearing larger on the monitor with larger pixels, and smaller on the monitor with smaller pixels. While the Examiner accepts this may be true, the language of claims 1, 11, and 22 necessitates that the image appear "substantially continuous to a viewer". Such language is highly subjective in nature, as what is substantially continuous to one person may not be substantially continuous to another. Therefore, the Examiner refers to Figs. 4 and 16(a) and col. 1, lines 62-67, which depict a single window displayed and moved across two different

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monitors. While the window may very well be larger on one monitor than the other due to variations in pixel resolution, the fact that the window appears to be the same window on both monitors, qualifies it as a "substantially continuous" image.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

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